NECA NATIONAL EXCHANGE CARRIER ASSOCIATION INC

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

100 South Jefferson Road
Whippany, New Jersey 07981
201/884-8160

Joanne Salvatore Bochis
Associate General Counsel

November 5, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Proposed Revision of Part 69 of the Commission's Rules to Allow for Incentive Settlement Options for NECA Pool Companies

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and five copies of the National Exchange Carrier Association, Inc.'s Petition for Rulemaking in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purposes and remitting same to bearer.

Very truly yours,

Joanne S. Bochis

Joanne S. Bochis

JSB/bas
Enclosures

cc: ITS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of

Proposed Revision of	)	
Part 69 of the	)	
Commission's Rules to	)	RM
Allow for Incentive	)	
Settlement Options for	)	
NECA Pool Companies	)	

PETITION FOR RULEMAKING

National Exchange Carrier
Association, Inc.
100 South Jefferson Road
Whippany, New Jersey

November 5, 1993

SUMMARY

NECA herein proposes rule revisions to allow it to offer incentive settlement options within the NECA pools. These settlement options are designed to provide incentives to small and mid-size NECA pool members similar to those adopted by the Commission for non-Association tariff participants. NECA pool members' participation in optional incentive plans would benefit ratepayers through increased efficiency, and under one of the incentive plans, through profit sharing. These incentive plans should be made optional to ensure individual pool members the ability to continue to choose cost pooling or average schedule status.

NECA proposes to offer its pool participants two incentive settlement options that allow continued pool membership, the "Pool Profit Sharing Incentive Option" and the "Pool Small Company Incentive Option." The first option is an incentive option which would allow NECA pool study areas to settle with the pools based on formulas that resemble the OIR Plan. The second, a simpler small company option, allows features similar to those found in Section 61.39 of the Commission's rules to be available only to Subset III study areas with fewer than 50,000 lines. Both proposed pool incentive options have attributes of average schedule formulas.

NECA also presents additional proposals for NECA pool efficiency. First, NECA proposes streamlined procedures for new service offerings in the NECA tariff. This would help reduce delay in introduction of new services due to member company difficulty in

providing NECA with the detailed data required to develop the cost-supported rates. Further, NECA seeks revenue-neutral pricing flexibility for the pools, similar to that available to participants in the OIR Plan.

To reflect the pooling processes NECA has been operating under since the inception of access charges on May 25, 1984, NECA proposes amendments to Part 69. The proposed amendments remove references to computing hypothetical net balances. Existing Sections 69.608, 69.609 and 69.610 (47 C.F.R. §§ 69.608, 69.609 & 69.610) should be replaced with a rule consistent with NECA practice and Commission waiver.

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PETITION FOR RULEMAKING

The National Exchange Carrier Association, Inc. (NECA) petitions the Commission to institute a rulemaking to revise Part 69 of the Commission's rules to allow telephone companies to elect regulatory incentive options while also retaining the administrative benefits gained by NECA pool participation.[1] NECA is proposing rule revisions that will allow it to offer incentive settlement options within the NECA pools. These settlement options are designed to provide incentives to small and mid-size exchange carriers (ECs) similar to those adopted by the Commission for non-Association tariff participants.[2]

During the Commission's Regulatory Reform proceeding, NECA filed a proposed rule that would permit it to develop pool

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[1] NECA's proposed rule revisions to Part 69 are contained in Appendix A.

[2] See Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 92-135, Notice of Proposed Rulemaking, 7 FCC Rcd 5023 (1992); Erratum, 7 FCC Rcd 5501 (1992) (Regulatory Reform NPRM). See also, Regulatory Reform for Local Exchange Carriers Subject to Rate of Return Regulation, CC Docket No. 92-135, Report and Order, 8 FCC Rcd 4545 (1993) (Regulatory Reform Order). See also, Sections 61.39 and 61.50 of the Commission's rules (47 C.F.R. §§ 61.39 and 61.50).

incentive options.[3] The Commission, declining to adopt the proposed rule in that proceeding, stated

> . . . we encourage NECA to continue to work on reforms to introduce optional incentive plans into the pooling process, which would be considered in the context of a separate proceeding, a waiver petition or a rulemaking.[4]

This petition is a culmination of NECA's study of optional incentive plans for NECA pool members. The NECA Pool Optional Incentive Plan is a modification of existing incentive regulation options that focuses on the unique needs of pool companies.

I. BACKGROUND

Commission actions throughout the past six years demonstrate a commitment to provide incentive-based regulation to ECs. The Commission began to examine alternatives to rate of return regulation in 1987.[5] With its initial focus on introducing price cap regulation, the Commission expected that separating prices from costs would lead to gains in efficiency.

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[3] See NECA Regulatory Reform NPRM Comments, filed August 28, 1992.

[4] Regulatory Reform Order at 4562.

[5] Refinement of Procedures and Methodologies for Represcribing Interstate Rates of Return for AT&T Communications and Local Exchange Carriers, CC Docket No. 87-463, Notice of Proposed Rulemaking, 2 FCC Rcd 6491 (1987) (First Price Cap NPRM).

Two years later the Commission adopted a price cap plan for AT&T.[6] The Commission separated services into three baskets: AT&T residential and small business, 800 service, and other business service. In addition, the Commission set price ceilings for each basket, and for selected services within each basket. Finally, the Commission developed formulas to update the caps.

In 1990, the Commission adopted another price cap plan, this one applicable to certain ECs.[7] The plan required the eight largest exchange carriers to become subject to price cap regulation. Incentive regulation was made voluntary, rather than mandatory, for all other ECs.

> we believe that the diversity of LECs and the incompletely developed record on productivity caution against a broader mandatory application of the price cap system.[8]

Pursuant to this option, six other large ECs chose to participate in the plan.

In total, price cap companies currently represent 94 percent of the nation's access lines. The EC price cap baskets are Common Line, Traffic Sensitive, Special, and Interexchange. Because it believed a single productivity measure (like AT&T's) in ceiling update formulas was too imprecise for all ECs, the Commission added

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[6] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Report and Order and Second Further Notice of Proposed Rulemaking, 4 FCC Rcd 2873 (1989).

[7] Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786 (1990) (Second Price Cap Order).

[8] Id. at 6819.

sharing to the EC price cap plan.[9] This concept provides that, if EC profits rise above or fall below defined thresholds, customers share in the gains and losses.

The Commission also stated that it would continue to explore potential revisions to incentive plans in order to develop options that would meet the needs of small and mid-sized ECs remaining under rate of return regulation.[10] In keeping with this commitment, the Commission initiated the Regulatory Reform NPRM in 1992, proposing new rules to implement optional regulatory reforms for small and mid-size ECs that remain subject to rate of return regulation.

On May 13, 1993 in the Regulatory Reform Order, the Commission adopted, with some modifications, the United States Telephone Association-proposed Optional Incentive Regulation (OIR) Plan. This plan integrates rate of return and price cap incentive regulation. The OIR plan separates prices from costs for two-year intervals, and requires a four-year commitment (two consecutive, two-year tariff periods). During each two-year period, companies can boost profits by lowering costs. The rates that apply during the two-year tariff period equal historic cost-based rates. The EC then adjusts the rates to reflect exogenous cost changes that will occur during the period.

At the same time, the existing section 61.39 of the rules (47 C.F.R. § 61.39), was expanded for Subset III companies with fewer

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[9] Id. at 6799-6801.

[10] Id. at 6827.

than 50,000 lines who are outside the NECA pools. Adopted in 1987 as an optional means of filing traffic sensitive tariff rates, the Section 61.39 filing option was extended to common line rates.[11] This two-year historic tariff option is available for both cost and average schedule study areas outside the NECA pools. There is no profit sharing, and no routine monitoring or reporting requirement associated with this plan. In addition, no exogenous adjustments occur under the Section 61.39 provisions. Participants reset their rates every two years. Further, those who adhere to the 61.39 plan need only commit to it for one, two-year tariff period.

NECA now asks the Commission to continue this program by extending these incentive options to companies that require the administrative assistance associated with participation in the NECA pools.[12] NECA pool members should be allowed to take part in optional incentive regulation as do other ECs.[13] The introduction of pool incentive plans will benefit ratepayers through increased efficiency, and under one of the incentive plans, through profit

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[11] The plan was adopted in Regulation of Small Telephone Companies, CC Docket No. 86-467, Report and Order, 2 FCC Rcd 3811 (1987), and amended in, Regulation of Small Telephone Companies, CC Docket No. 86-467, Order, 3 FCC Rcd 5770 (1988). The plan was made applicable to common line rates in the Regulatory Reform Order at 4559.

[12] See MTS and WATS Market Structure, Third Report and Order, CC Docket No. 78-72, Phase I, 93 F.C.C. 2d 241, 328 (1983) and MTS and WATS Market Structure, Memorandum Opinion & Order, CC Docket No. 78-72 Phase I, 97 FCC 2d 682, 755 (1983) for discussion of pool benefits.

[13] The Commission recognized this factor in its Regulatory Reform NPRM at 5030 where it stated that it was looking for ways to "remove obstacles to the introduction of incentives for increased efficiency into the NECA pools."

sharing. These incentive plans should be made optional to ensure individual pool members the ability to continue to choose cost pooling or average schedule status.

II. KEY FEATURES OF NECA'S POOL INCENTIVE OPTIONS PLAN

NECA proposes to offer its pool participants two incentive settlement options that allow continued pool membership. The first option has many of the attributes of the Commission's Section 61.50 "OIR Plan."[14] The second, a simpler small company option contains incentive features similar to those found in Section 61.39 of the Commission's rules.[15] In addition, both proposed pool incentives options have attributes of average schedule formulas. NECA describes these options below as the "Pool Profit Sharing Incentive Option" and the "Pool Small Company Incentive Option."

Study areas who participate in either option will use incentive settlement formulas to recover costs and earnings from the pool based on historical cost and demand data relationships, while continuing to charge customers at NECA uniform tariff rates. This involves use of individual study area "settlement rates" within a pool to simulate the cost efficiency incentives created through tariff rate options outside the pool. The incentive formula settlement rates, which are based on historical revenue requirements per demand unit, will be multiplied by actual demand during the incentive period to calculate pool settlements to the

[14] 47 C.F.R. § 61.50.

[15] 47 C.F.R. § 61.39.

incentive option companies.[16] The incentive settlements will have the pool rate of return adjustment applied to them in the same manner as is done for average schedule settlements.[17]

To develop NECA's tariff rates under the option, the pool revenue requirement would be derived by summing projected average schedule settlements, incentive settlements (i.e. settlements for both the pool profit sharing incentive option and the pool small company incentive option), and cost company revenue requirements. The forecasts of NECA incentive settlements would be calculated by summing projected study area-specific settlements derived from each study area's settlement rate formulas and forecasted demand. Further, by calculating the forecasted demand levels for all pool members, NECA will derive total pool forecasted demand. Ultimately, the uniform tariff rates are calculated by dividing forecasted pool revenue requirements by forecasted demand. Study areas choosing the proposed pool incentive options will follow similar reporting procedures to those currently in effect for cost and average schedule companies in the NECA pools.

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[16] This formula approach to calculating pool settlement rates is similar to average schedule formula rates except that the incentive formula rates are unique to each study area, based on its own historic cost and demand data.

[17] See, e.g. National Exchange Carrier Association, Inc. December 31, 1992 Proposed Revisions to the Average Schedule Formulas at VII, page 29, approved by the Commission in National Exchange Carrier Association, Inc., Proposed Modifications to the Interstate Average Schedules, 8 FCC Rcd 4867 (1993).

A. Pool Profit Sharing Incentive Option

The Pool Profit Sharing Incentive Option is an incentive option which would allow NECA pool study areas to settle with the pools based on formulas that resemble the OIR Plan.

A pool study area that chooses this incentive option will be compensated under formulas for three service groups: Common Line, Traffic Sensitive Switched Access, and Special Access. Each study area will have its own formula-derived settlement rates.[18] The settlement rates will be updated biennially. In the first two-year period they will be based on prior calendar year data, adjusted for exogenous rule changes.[19] In succeeding two-year periods the settlement rates will be based on the prior two-year period data adjusted for exogenous rule changes. Each incentive option participant is committed to participate in the option for two, consecutive two-year periods.[20] At the end of each two-year period, NECA will reset the settlement rates to the authorized rate

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[18] The settlement formulas will be structured as follows: for Common Line, settlements will be based on retention of tariff End User Common Line revenues and a Carrier Common Line settlement rate per minute, calculated the same as in Section 61.50(k) of the Commission's rules (47 C.F.R. § 61.50(k)); for Traffic Sensitive Switched Access, settlements will be based on a single settlement rate per switched access minute; for Special Access, settlements will be based on a retention ratio applied to tariff Special Access revenues, similar to average schedule formulas.

[19] For purposes of NECA's incentive settlement option, exogenous rule changes would be the same as those defined by the Commission for non-pool ECs filing under 47 C.F.R. § 61.50.

[20] Incentive study area two-year periods will correspond to access tariff test periods, i.e., July 1 through June 30. Election of the option will be required not later than December 31 of the preceding year, coincident with the election to participate in the association tariffs (See 47 C.F.R. § 69.3(e)(6)).

of return. If the EC elects, after the 4-year commitment period, to leave this incentive option, it would not be permitted to re-elect the option for four years.

Election of the pool profit sharing option would be made available to cost study areas in the NECA Pools for either Traffic Sensitive elements only or Traffic Sensitive and Common Line elements.[21]

Profit sharing for the Pool Profit Sharing Incentive Option is based on the same defined bounds as under the OIR plan, i.e., an upper earnings threshold of 150 basis points above the authorized rate of return, and a lower earnings threshold of 75 basis points below the authorized rate of return.[22] Under NECA's plan this incentive option profit sharing among the participating incentive study areas would occur prior to profit sharing with customers. This is similar to the manner in which a price cap holding company experiences profit sharing among its study areas before the calculation of profit sharing with its customers.

Specifically, NECA incentive study areas with excess profits will share a portion of those excess profits with other Pool Profit Sharing Incentive Option study areas who have earned below the lower earnings threshold. This profit sharing will, however, only raise a low earning study area's profits to the lower threshold and

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[21] Study areas solely participating in NECA's Common Line Pool would participate in pool incentive options for Common Line only.

[22] This is the same as that found in 47 C.F.R. § 61.50(j).

only to the extent that there are sufficient excess profits available.[23]

Hypothetically, one incentive study area could earn $1000 in profit over the upper threshold, and another incentive study area could earn $300 below the lower earnings threshold range. Under this scenario, the first study area would contribute $300 of its excess profits to the other incentive study area to offset its deficit. The remaining $700 would be returned to customers.

The profit sharing incentive option described above would provide benefits to the Commission, to pool tariff customers, and to NECA companies. It answers the Commission's objective to encourage cost efficiencies by providing an additional opportunity for ECs to participate in incentive plans. Specifically, the incentive option would reward cost containment through higher earnings for participating pool members, and lower future rates for pool tariff customers.[24] At the same time, profit sharing between incentive study areas balances the risks to individual study areas, thereby encouraging participation. In addition, the option would allow pool members to continue to receive pooling benefits including centralized tariff administration and ratemaking and Long Term Support.

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[23] This feature, in addition to simulating the benefits experienced by large price cap holding companies, provides a safety net within the pooling environment in lieu of the mid-course tariff retargeting option available under Section 61.50(j), (47 C.F.R. § 61.50(j)).

[24] In addition to rewarding pool members for cost containment it also incents companies to stimulate demand on their network.

B. Pool Small Company Incentive Option

In the Regulatory Reform proceeding, the Commission expanded section 61.39, which previously had been available for Traffic Sensitive elements, to make it available for Common Line elements as well.

The NECA Pool Small Company Incentive Option allows a similar option available only to Subset III study areas with fewer than 50,000 lines. Cost and average schedule study areas may elect this incentive option for either Traffic Sensitive elements only, or Traffic Sensitive and Common Line elements.[25] Participation in this incentive option requires only one two-year commitment on the part of the participating company. Neither exogenous rule changes nor profit sharing provisions are included in this option.

A study area electing this optional incentive plan will also charge NECA's uniform tariff rates to customers. Like a Pool Profit Sharing Incentive Option study area, it will recover from the pool based on incentive settlement formulas and its actual demand during the incentive period.[26]

In essence, this incentive option simply provides historically-based settlement formulas which are reset to the authorized rate of return at the end of each two-year period. This Pool Small Company Option, by providing an additional opportunity

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[25] Average Schedule study areas electing this pool incentive option would retain their average schedule status, consistent with Section 61.39(e) (47 C.F.R. § 61.39).

[26] The settlement formulas would be structured into three service groups, the same as described in Section II.A. supra.

for ECs to participate in incentive plans furthers the Commission's goal of encouraging cost efficiency. By providing this option within the pool, eligible study areas would continue to reap administrative savings that come as part of being a pool member. Ultimately, those administrative cost savings will be passed on to pool tariff customers.

C. Additional Proposals For NECA Pool Efficiency

The following features are proposed as enhancements to NECA's current tariff filing procedures. NECA has previously made proposals for streamlined new services introduction and pricing flexibility for pool members in the Regulatory Reform proceeding.[27] The Commission did not adopt those proposals because baseline regulation was not being changed.[28] Since NECA is now proposing incentive options for pool study areas, it is including in this Petition these same proposals, which would apply to all pool participants. In addition, NECA is again proposing revisions to Commission rules to accurately reflect pool settlements.[29]

1. Streamlined New Service Introduction

The Commission has recognized that new services and new technologies are as important to small towns and rural areas as

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[27] See NECA Regulatory Reform NPRM Comments at 9-14.

[28] Regulatory Reform Order at 4562.

[29] See NECA Regulatory Reform NPRM Comments at 20-21 and Appendix A.

they are to urban areas.[30] In the Regulatory Reform proceeding, NECA supported the Commission's efforts to streamline procedures for introducing new interstate access services.[31]

NECA proposes streamlined procedures for new service offerings in the NECA tariff. Streamlined procedures, consistent with the Commission's OIR and Section 61.39(d) (47 C.F.R. § 61.39(d)) new service provisions, will help to reduce delay in introduction of new services due to member company difficulty in providing NECA with the detailed data required to develop the cost-supported rates. These procedures include a presumption of lawfulness for new services, without burdensome cost support requirements. In addition, like the Commission's non-pool plans, NECA proposes that the tariff transmittal for a new service can be filed on fourteen days' notice. This provision will allow pool ECs to bring new services to their customers more rapidly.

NECA proposes to set pool rates for new services at a level not to exceed the highest-filed price cap carrier rate. NECA's interstate access rates are applied uniformly by approximately 1,200 pool participants. Therefore, NECA's tariff is applicable in territories that neighbor every price cap carrier. Instead of cost support, NECA will demonstrate how the service is like an existing service offered by price cap ECs, and that the price does not exceed the prices charged by those ECs. NECA requests that the

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[30] First Price Cap NPRM at 6496.

[31] See NECA Regulatory Reform NPRM Comments at 9-12.

Commission incorporate this new services recommendation in the proposed rulemaking.

2. Pricing Flexibility

The Commission has recognized that pricing flexibility is necessary for the success of an incentive-based system and has included pricing flexibility in its price cap plans as well as the OIR Plan.[32] NECA is proposing revenue-neutral pricing flexibility for the pools and believes this is consistent with the concept of pool neutrality, i.e. that Commission rules do not advantage or disadvantage ECs that wish to participate in the NECA pools.[33]

NECA seeks pricing flexibility similar to that available outside of the pool to price cap carriers and participants in the OIR Plan. As in the OIR Plan, NECA proposes a modified "no-suspension zone," without the use of an EC price index.[34] Within each one-year tariff period, the revenues produced from the rates in the two service groups, traffic sensitive switched and special, would remain unchanged. NECA could, however, adjust rates within these groups up or down 5 percent over the tariff period, subject to a reduced 14-day notice requirement. Rates would be

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[32] See e.g. 47 C.F.R. § 61.49 (c) and (d). See also Regulatory Reform Order at 4550-51.

[33] Numerous proceedings before the Commission have stressed the need for pool neutrality. See Regulation Reform of Small Telephone Companies, Notice of Proposed Rulemaking, CC Docket No. 86-467, 2 FCC Rcd 1206 (1986) at 1206 and Order, 2 FCC Rcd 3811 (1987) at 3812. See also, NTS Recovery, Order, 2 FCC Rcd 2953 (1987) and Order on Reconsideration, 3 FCC Rcd 4543 (1988).

[34] See Regulatory Reform Order at 4550-51.

presumed lawful if NECA demonstrates revenue neutrality on a prospective basis.

Aggregate revenues at the beginning of each tariff period would be used as the basis for aggregate rates. Further, in order to address changing market conditions, the rate relationships of rates within the "no-suspension zone," in effect at the end of a tariff period, may be used to set rates at the beginning of the new tariff period. This pricing flexibility will not extend to NECA's carrier common line or end user common line rate elements. NECA, therefore, requests that pricing flexibility as described here be incorporated in this proceeding.

3. Pool Settlement Rule Revisions

As it requested in the Regulatory Reform proceeding, NECA is also proposing amendments to Part 69 to reflect the pooling processes NECA has been operating under since the inception of access charges on May 25, 1984.[35] The proposed Part 69 rules reflect the settlement methods used continuously by NECA pursuant to the Commission's grant of waiver.[36] These revisions remove

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[35] See Appendix A for proposed rule changes. These rule changes were also requested in NECA Regulatory Reform NPRM Comments at 20-21 and Appendix A.

[36] See MTS and WATS Market Structure, Order Granting Waiver, CC Docket No. 78-72 Phase I, (CC 4701) released May 23, 1986 (waiving until further notice Sections 69.605 through 69.611 of the Commission's rules). See also in the same docket Order Granting Waiver, (CC 2718), released February 22, 1985 (permitting NECA to continue to use traditional settlements model approach from June 1985 - June 1986), and Order Granting Waiver, (FCC 84-204), released May 16, 1984 (granting NECA's initial waiver of sections 69.605-611).

inaccurate references to computing hypothetical net balances. Existing Sections 69.608, 69.609 and 69.610 (47 C.F.R. §§ 69.608, 69.609 & 69.610) have never been used to effectuate settlements in the NECA pools and should be replaced with a rule consistent with NECA practice and Commission waiver.

III. CONCLUSION

NECA's Pool Incentive Options Plan as described in the proposed rules, shown in Appendix A, will extend the availability of incentive options to a larger number of ECs. By allowing NECA to provide incentive options, the Commission will promote increased efficiency, while retaining the administrative savings inherent in the pooling mechanism. NECA's other pool changes, including streamlined new service introductions and pool pricing flexibility, offer the industry and its customers additional benefits. NECA urges the Commission to adopt expeditiously the policies and rules proposed herein.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

Joanne Salvatore Bochis

Joanne Salvatore Bochis
100 South Jefferson Road
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Its Attorney

Lisa L. Leibow
Regulatory Manager

November 5, 1993

inaccurate references to computing hypothetical net balances. Existing Sections 69.608, 69.609 and 69.610 (47 C.F.R. §§ 69.608, 69.609 & 69.610) have never been used to effectuate settlements in the NECA pools and should be replaced with a rule consistent with NECA practice and Commission waiver.

III. CONCLUSION

NECA's Pool Incentive Options Plan as described in the proposed rules, shown in Appendix A, will extend the availability of incentive options to a larger number of ECs. By allowing NECA to provide incentive options, the Commission will promote increased efficiency, while retaining the administrative savings inherent in the pooling mechanism. NECA's other pool changes, including streamlined new service introductions and pool pricing flexibility, offer the industry and its customers additional benefits. NECA urges the Commission to adopt expeditiously the policies and rules proposed herein.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.

Lisa L. Leibow
Regulatory Manager

/s/ Joanne Salvatore Bochis
100 South Jefferson Road
Whippany, New Jersey

Its Attorney

November 5, 1993

Section 69.605 **REPORTING AND DISTRIBUTION OF POOL ACCESS REVENUES**

(Remains the same except that reference to §§ 69.607 through 69.610 changes to **§§ 69.607 and 69.608**. See also NECA Petition for Rulemaking regarding Proposed Revision of Section 69.605 of the Commission's Rules to Allow Small Cost Settlement Companies to Elect Average Schedule Settlement Status, filed September 13, 1993.)

Section 69.606 **COMPUTATION OF AVERAGE SCHEDULE PAYMENTS.**

(Remains the same except that reference to § 69.607 changes to **§ 69.608(d)**.

Section 69.607 **COMPUTATION OF OPTIONAL INCENTIVE PAYMENTS**

(a) **General.** The association may offer optional incentive plans on an elective basis to association tariff participants. Such incentive settlement payments shall be made in accordance with incentive formulas as described herein. The incentive formulas shall be separated into three service groups: Common Line, Traffic Sensitive Switched Access and Special Access. Each study area shall have its own settlement rate for each formula. The settlement rates shall be set for two-year periods based upon historical revenue requirements and demand. The settlement formulas shall be based upon the prescribed rate of return applicable to the period the rates are in effect. The settlement formulas shall be structured as follows:

(1) Common Line settlements shall be based on retention of tariff End User Common Line revenues and a Carrier Common Line settlement rate per switched access minute calculated using the same method prescribed in § 61.50(k).

(2) Traffic Sensitive Switched Access settlements shall be based on a settlement rate per switched access minute.

(3) Traffic Sensitive Special Access settlements shall be based on a retention ratio applied to tariff Special Access revenues.

(b) **Pool Small Company Incentive Option.** This incentive option provides an optional settlement method for association tariff participants that are Subset 3 carriers as described in § 69.602, and which serve 50,000 or fewer access lines in a study area as determined under §36.611(a)(8) of the Commission's rules. Cost and average schedule study areas may elect this incentive option for either Traffic Sensitive elements only or for Traffic Sensitive and Common Line elements. Average schedule study areas choosing this option shall retain their status as average schedule companies. Study areas electing the Pool Small Company Incentive Option shall not withdraw from this incentive option until the end of one, two-year period.

(c) **Pool Profit Sharing Incentive Option.** This incentive option provides an optional profit sharing settlement method for association tariff participants. Historically-based settlement rates used with this option shall be adjusted to reflect exogenous cost changes as applicable to companies filing under § 61.50 in addition to those cost changes that the Commission shall permit or require. Cost study areas participating in the association pools may elect this incentive option for either Traffic Sensitive elements only or for Traffic Sensitive and Common Line elements. Study areas electing the Pool Profit Sharing Incentive Option shall not withdraw from this incentive option until the end of two, two-year periods. If a study area withdraws from this incentive option, it may not re-elect this option for four years.

For incentive settlement calculations, the maximum allowable rate of return for study areas electing this Pool Profit Sharing Incentive Option shall be determined by adding a fixed increment of one and one-half percent to the study area's prescribed rate of return. If a study area earns less than three-quarters percent below the prescribed rate of return, it may receive excess profits from other Pool Profit Sharing Incentive Option participants. These excess profits may only be shared to a limit of three-quarters percent below the study area's prescribed rate of return, with the remaining excess profits returned to customers.

(d) **Notice** A pool study area that chooses to elect one of the incentive options under this section must notify the association not later than December 31 of the year preceding the effective date of the next association annual access tariff i.e. July 1 of the following year.

Section 69.608 **COMPUTATION AND DISTRIBUTION OF TELEPHONE COMPANY NET BALANCES.**

(a) The association shall compute a monthly net balance for each telephone company participating in association tariffs. If such net balance is negative, that amount shall be billed by the association to the company. If such net balance is positive, the association shall disburse that amount to the company.

(b) The net balance for an average schedule company shall be equal to the payment due such company, calculated as prescribed in formulas filed pursuant to § 69.606, less the access revenues reported by the company.

(c) The net balance for a telephone company that participates in any of the association's optional incentive plans shall be equal to the payment due such company, calculated pursuant to § 69.607, less the access revenues reported to the association.

(d) The net balance for any other telephone company that participates in association tariffs shall be equal to a payment calculated to reimburse the company for its operating expenses and taxes and to provide a share of remaining pool revenues based on relative net investment, less the access revenues reported to the association by the company.

Sections 69.609 and 69.610 are deleted. Current Sections 69.611 and 69.612 language remains unchanged and may be renumbered.